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New Great Lakes protection plan called improved, flawed

Water-withdrawal rules must be set by the end of 2013

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COLUMBUS — Gov. John Kasich once again is weighing the consequences of a controversial regulatory program to monitor water withdrawals from the Lake Erie

watershed.

Kasich, a Republican and self-described supporter of Lake Erie, angered some members of his own party when he vetoed the first, business-friendly regulatory program that GOP lawmakers passed last year.

A Republican lawmaker recently introduced a new proposal for the regulations, which must be in place by the end of next year. Environmental groups and Democrats already are lining up to poke holes in the new plan because they say it is

irresponsible and out of compliance with the Great Lakes Compact, a multistate agreement passed in 2008 to protect the Great Lakes basin.

Critics of the plan, which is still working its way through the legislature, say it's too early to tell exactly where the governor stands and whether he's willing to pull out his veto pen again if he doesn't like the final product.

"We don't want Great Lakes 2 to be veto 2," said Rep. Dennis Murray, a Democrat from Sandusky

who sits on the committee holding hearings on the plan. "At the rate it's going, it could well end up that way."

Although Democrats and environmental groups oppose significant aspects of the new plan, they admit there are some improvements from the first version.

The new water withdrawal program lowers the thresholds at which businesses or other entities would have to obtain a permit from the state.

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It also puts into place some protections for high-quality streams and adds checks and balances to enforce permit requirements.

Kasich's administration was involved in crafting the new plan — introduced by Rep. Lynn Wachtmann, a Republican from Northwest Ohio — but the governor believes some issues still must be addressed, particularly with regard to the protection of high-quality streams.

"We believe the bill is a dramatic improvement over what was vetoed," Kasich spokesman Rob Nichols said. "Any concerns we have can be addressed through the legislative process."

Asked if the governor is willing to veto another regulatory program he does not support, Nichols said, "We're not laying down ultimatums."

Ohio and the other Great Lakes states must establish a program to regulate water withdrawals to protect the basin's water. Almost 600 businesses and municipal water users already are registered with the state to withdraw more than 100,000 gallons per day from the Lake Erie watershed. The proposed regulations would apply only to new or increased

water withdrawals.

Under the new proposal, withdrawals from Lake Erie of 2.5 million gallons per day, averaged over a 90-day period, would trigger the permitting requirement. The vetoed program set that threshold at 5 million gallons per day.

The threshold for withdrawals from rivers, streams or ground water was lowered from a 90-day average of 2 million gallons per day to an average of 1 million gallons per day.

The most dramatic reduction was for high-quality streams. The new plan sets the withdrawal threshold at a 90-day average of 100,000 gallons per day. The vetoed plan set the threshold at 300,000 gallons per day.

Democrats and environmental groups who opposed the first plan say they are pleased the thresholds have been lowered.

But they are concerned the withdrawals would be averaged out over three months. That could allow a business to ex-

ceed the thresholds without applying for a permit. For example, a withdrawal from Lake Erie of 6 million gallons in a single day would not trigger the permitting process when averaged out over 90 days. Supporters of the new plan counter that such doomsday scenarios are impractical.

Even more concerning to opponents is the way "significant adverse impact" to the watershed is defined in the new plan. States must define the term under the Great Lakes Compact to identify safe levels of withdrawal.

The proposed plan sets up a study group to help define the phrase and make recommendations to lawmakers within 18 months of the regulatory program's effective date. In the meantime, the Ohio Department of Natural Resources would decide safe withdrawal levels by considering the impact on the watershed as a whole.

This process raised strong objections.

Critics fear assessing the entire watershed would allow damaging withdrawals from individual tributaries that might not qualify as harmful to the entire watershed.

"The way the bill is drawn, it provides no protection to all of those source watersheds. You could completely obliterate one of those," Rep. Murray said.

Murray also scoffed at the study group that ultimately would help define what constitutes a "significant adverse impact." He said it's stacked with representatives from the business community.

"You might as well have the [Ohio] Chamber of Commerce decide what an adverse impact means," he said.

Despite these objections, Republican lawmakers are eager to pass a pro-business set of standards.

Rep. Wachtmann, a staunchly business-friendly Republican, said the bill includes significant compromises.

"It provides the strong protections we all want for the

Lake Erie watershed," he testified last week before the House Agriculture and Natural Resources Committee. "At the same time, it ensures that our businesses can still grow and create the high-paying jobs associated with steel plants, utilities, farms and the many factories along Ohio's hard-hit industrial corridor."

Hearings on the bill, House Bill 473, are scheduled to resume later this month.

Former Gov. Bob Taft, a Republican who testified against the previous regulatory program, said work remains to be done on the latest proposal. Taft is on the board of directors for the Alliance for the Great Lakes, an independent citizens organization.

"It's a vastly improved bill from the one the governor vetoed," Taft said. "There are some ways in which the alliance believes the bill can still be improved."

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